HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NO. 25780 OF 2006

Between:

Bulla Papa Rao

..... Petitioner

AND

The Assistant Commissioner of Police,
Balanagar Sub-Division,
Cyberabad & others

.....Respondents

:: O R D E R ::

Counsel for the petitioner : Shri G.V.N.R.S.S.S. Vara Prasad

Dated: 13.12.2006

Per G.S.SINGHVI, CJ

By means of this petition filed under Article 226 of the Constitution of India for issue of a writ of habeas corpus, the petitioner has tried to create evidence against respondent No.3, who is none else than his own wife and with whom he is in litigation.

The petitioner and respondent No.3 – Bulla Masthanamma Chitti were married on 05.02.1991. The latter gave birth to a male child (Pavan Kumar) on 26.08.1992 and a female child (Geeta Pallavi) on 30.10.1998. After ten years of marriage, the petitioner filed a petition under Section 13(i)(ia)(ib) of the Hindu Marriage Act, 1955 in the Family Court at Vijayawada for dissolution of the marriage. The same stands registered as O.P.No.426 of 2001. Respondent No.3 also filed a petition in the Family Court at Hyderabad, which stands registered as O.P.No.684 of 2004.

In the affidavit filed in this petition, the petitioner has made certain allegations casting aspersions on the character of respondent No.3 by alleging that she has developed illegal contacts with respondent No.4 –

Jagadeesh, a resident of Vivek Nagar, who is employed as Technical Assistant in Arvind Pharma where respondent No.3 is working as Quality Control Executive. In paragraph 5, he has alleged that his son Pavan Kumar is missing since 26.11.2006 and a complaint to that effect has been lodged at Kukatpally Police Station. He has further averred that respondent No.3 is not responding to his enquiries about the son and the authorities of Kukatpally Police Station have also not taken action to trace out the boy.

We have heard Shri G.V.N.R.S.S.S. Vara Prasad, learned counsel for the petitioner and carefully scanned the averments contained in the writ petition. We have also gone through reports dated 30.11.2006 made by the petitioner to the Inspector of Police, Kukatpally Police Station, Cyberabad and Assistant Commissioner of Police, Balanagar Sub-Division, Cyberabad. In our opinion, the writ petition has been filed by the petitioner with the sole object of creating evidence against respondent No.3. It is neither the pleaded case of the petitioner nor any evidence has been produced before the Court to show that two children born out of his wedlock with respondent No.3 are living with him. Rather, in response to the Court's query, learned counsel for the petitioner fairly admitted that the children have through out been living with their mother i.e. respondent No.3. The

complaint made by the petitioner is primarily directed against respondent Nos. 3 and 4 and the story of the missing of Pavan Kumar has been concocted by the petitioner to somehow or other involve respondent Nos. 3 and 4 in criminal case. Therefore, we do not find any valid ground or justification to entertain the prayer made in the writ petition, which is hereby dismissed.

G.S.SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

13.12.2006
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